



U.S. DEPARTMENT of STATE

Austria

Country Reports on Human Rights Practices - [2003](#)

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Austria is a multiparty parliamentary democracy in which constitutional power is shared between the popularly elected President and the 183-member Parliament. Citizens choose their President and representatives in periodic, free, and fair multiparty elections. In 1998, President Thomas Klestil of the Austrian People's Party (OVP) was elected to a 6-year term. In parliamentary elections in November 2002, the OVP received a plurality and renewed its right-center coalition with the Freedom Party (FPÖ). The judiciary is independent.

The national police maintain internal security, and the army is responsible for external security. The civilian authorities maintained effective control of the security forces. There were reports that the police committed some human rights abuses.

The country's highly developed, market-based economy, with its mix of technologically advanced industry, modern agriculture, and tourism, affords the approximately 8.0 million citizens a high standard of living. The per capita gross domestic product (GDP) was \$25,075 in 2002. Wages kept pace with inflation during the year. GDP grew by approximately 1 percent during the year; there were no serious inequalities in the distribution of income.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were some reports of abuse by police, which involved occasional beatings but mainly involved verbal abuse, threats, and harassment. Foreign observers criticized the strict application of slander laws as detrimental to press reporting. There was some governmental and societal discrimination against members of some non-recognized religious groups, particularly those considered to be sects. There were neo-National Socialist, rightwing extremist, and xenophobic incidents during the year. Trafficking in women for prostitution remained a problem, which the Government took steps to combat.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no political killings. In July, a 33-year old Mauritanian man died in custody while being arrested by the Vienna police. The Interior Ministry's internal investigations led to charges filed against the emergency doctor who was present during his arrest. The Government's Human Rights Advisory Council also investigated the case and intended to issue recommendations for the future handling of arrests. Opposition parties and non-governmental organizations criticized the police and rescue workers for mishandling the situation.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices; however, there were occasional reports that at times police beat and otherwise abused persons. Government statistics for 2002 showed 1,251 complaints against federal police officials; of those, 1,160 were dropped. Sixteen cases were brought before the courts, and 2 officers were convicted of using unjustified force; 74 cases were pending at year's end. Types of abuse ranged from slander to kicking and hitting, which resulted mainly in bruising. Some of the violence appeared to be racially motivated.

NGOs and other groups continued to criticize the police for targeting minorities. In August, a regional court in Linz ruled that a policeman who verbally assaulted a black African refugee in 2002 using an extremely derogatory term, insulted the man's honor but did not injure his human rights. In the ruling, the court stated that the policeman would have injured the victim's human rights

if he had denied his right to existence, either directly or indirectly. At year's end, the Justice Ministry was examining whether it could challenge the verdict. During the year, the Interior Ministry's racial sensitivity training programs for police and other officials continued to be conducted with NGO assistance (see Section 5).

A Committee in the Interior Ministry seeks to ensure that the police and gendarmerie respect human rights while carrying out their duties. Since its founding, the committee has issued 230 recommendations regarding the improvement of human rights in the country, including: Greater transparency for nongovernmental organizations (NGOs) regarding police documentation, police handling of inmates on hunger strikes, and proper police techniques in dealing with unruly suspects (see Section 2.d.).

An Austrian U.N. peacekeeper was tried in absentia and sentenced to 3 years in prison in a court in Kosovo for crimes of torture. In 2002, he was accused of hitting an Albanian detainee and forcing him to dig a hole for his grave. The Government denied Kosovo's request for extradition; their investigation into the incident remained ongoing at year's end.

Prison conditions generally met international standards. Male and female prisoners were held separately, as were adults and juveniles. Pretrial detainees were held separately from convicted criminals. The Government permits prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government generally respected these prohibitions.

There are two law enforcement bodies--the police and gendarmerie--both with central command in the Ministry of Interior. The Ministry of Interior initiated an organizational overhaul of the structure of law enforcement bodies with the goal to merge the police and gendarmerie units in July 2004. Statistics showed an increase of 10.6 percent in criminal offenses since 2002. Unofficial figures published in the fall reflected an unusual rise of 13 percent in conventional crimes during the year, such as petty theft, burglaries, car break-ins, and pick-pocketing, which have led to a national debate on the effectiveness of law enforcement. During the year, police solved less than 40 percent of cases. The police were well trained and disciplined, and there were no reports of corruption within the police.

In criminal cases, the law provides for investigative or pretrial detention for up to 48 hours; an investigative judge may decide within that period to grant a prosecution request for detention of up to 2 years pending completion of an investigation. The grounds required for such investigative detention are specified in the law, as are conditions for bail. The investigative judge is required to periodically evaluate an investigative detention. There is a system of bail.

The law prohibits forced exile, and the Government did not employ it.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The Constitution provides that judges are independent in the exercise of their judicial office. Judges cannot be removed from office or transferred against their will. There are local, regional, and higher regional courts, as well as the Supreme Court. While the Supreme Court was the court of highest instance for the judiciary, the Administrative Court acted as the supervisory body over administrative acts of the executive branch, and the Constitutional Court presided over constitutional issues.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The system of judicial review provides for extensive possibilities for appeal. Trials must be public and must be conducted orally. Persons charged with criminal offenses were considered innocent until proven guilty.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions and the Government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, the strict application of slander laws tends to discourage reports of police brutality. Foreign observers, including the European Court of Human Rights, criticized the use of libel procedures to protect politicians, which they argued hampered freedom of speech and the press. A conviction for libel by a criminal court cannot be appealed to the Supreme Court.

Publications may be removed from circulation if they violate legal provisions concerning morality or public security, but such cases were extremely rare.

In March, the Vienna Appellate Court lifted the verdicts against former FPO trade unionist Joseph Kleindienst and former Vienna FPO Secretary Michael Kreissl for bribing police in 2000. The case was referred back to the court of first instance, which held its first session on the case in December.

The small print media consisted of 16 daily newspapers, 6 of which received special subsidies from the Government. After the merger of two major publishing groups, News and Mediaprint in 2001, one company controlled 60 percent of Austria's daily newspaper market and almost 100 percent of the magazine market. European Union (EU) authorities criticized the media monopoly. All newspapers were independent. There were 49 commercial and 12 noncommercial radio stations. By year's end, 75.3 percent of citizens listened to the Austrian Broadcasting Corporation, a public but independent radio station in which the Government owns shares but has no control over content; 21.5 percent listened to private stations.

The Private Television Act and the Austrian Broadcasting Corporation (ORF) Reform Act established a new media regulatory body known as KOMM Austria that permits private television stations. In June, the first private TV channel, ATVPlus, could be received nationwide through house antennas.

The Government did not restrict access to the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. However, the Law on the Formation of Associations states that permission to form an organization may be denied if it is apparent that the organization would pursue the illegal activities of a prohibited organization, such as Nazi organizations. In August, Vienna police prohibited a demonstration planned by rightwing groups against the transfer of the body of Walter Nowotny, a World War II pilot, from an honorary grave to a regular grave. A leftwing counter-demonstration on the same day was not prohibited.

In May and June, there were two large-scale peaceful demonstrations protesting the Government's planned pension reform.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Religious organizations may be divided into three different legal categories, each possessing a different set of rights, privileges, and responsibilities (listed in descending order of status): Officially recognized religious societies, religious confessional communities, and associations. Government recognition as a religious society has wide-ranging implications, such as the authority to participate in the mandatory church contributions program, which can be legally enforced, to provide religious instruction in public schools, and to bring in religious workers to act as ministers, missionaries, or teachers. Religious societies have "public corporation" status. This status permits religious societies to engage in a number of public or quasi-public activities that are denied to confessional communities and associations.

In March, the Coptic Orthodox Church became a religious society through the Law on Oriental Churches. The law, which also created an Oriental-Orthodox Church Commission, made the status of the Coptic Church equal to that of the Syrian and Armenian Apostolic Churches, which were already recognized as religious societies. Non-recognized groups criticized the law as circumventing the requirements for recognition under the 1874 Law on the Recognition of Churches.

The law also allows non-recognized religious groups to seek official status as confessional communities without the fiscal and educational privileges available to recognized religions. Confessional communities have juridical standing, which permits them to engage in such activities as purchasing real estate in their own names and contracting for goods and services. A decision on the application of the Sahaja Yoga group to become a confessional group was pending before the Constitutional Court at year's end.

Ten religious groups have constituted themselves as confessional communities according to the law. Numerous religious groups not recognized by the State, as well as some religious law experts, dismiss the purported benefits of obtaining status under the law and have complained that the law's additional criteria for recognition obstruct claims to recognition and formalize a second-class status for non-recognized groups. Experts questioned the law's constitutionality.

In June, the European Court for Human Rights (ECHR) received an appeal by Jehovah's Witnesses, arguing that the 10-year period of existence required under the law to be recognized as a religious group is illegal on administrative grounds. In 1998 they also filed a complaint with the ECHR, arguing that the group had not been granted full status as a religious entity under the law, despite having made numerous attempts for more than two decades. The ECHR sent a list of questions to the Government, which responded in October. A final decision was pending at year's end.

Religious organizations that do not qualify for either religious society or confessional community status may apply to become associations. This status was granted relatively freely.

The OVP's position that party membership is incompatible with membership in a sect remained in force at year's end.

The Ministry for Social Security and Generations ceased issuing its controversial brochure on non-recognized religious groups. However, the Ministry and the City of Vienna were funding a counseling center run by a controversial NGO that actively worked against sects and cults (the Association against Sect and Cult Dangers). This NGO distributed information to schools and the general public and ran a counseling center for those who felt negatively affected by cults and sects.

The Federal Office of Sect Issues continued to function as a counseling center for those who had questions about sects and cults. Under the law, this office has independent status, but its head was appointed and supervised by the Minister for Social Security and Generations. Several states funded offices that provided information on sects and cults. The Family Office of the Government of Lower Austria provided a presentation on its website which negatively characterized many religious groups. The presentation included the Jehovah's Witnesses, despite its status as a confessional community.

The Austrian Branch of the International Coalition for Religious Freedom (ICRF) publicly attacked a CD-ROM entitled "The Search for Meaning: an Orientation Guide to Organizations that Offer the Solution." The CD-ROM contained information on a range of recognized and non-recognized religious groups, including criticism of the Church of Latter-day Saints and Jehovah's Witnesses. The CD-ROM had been issued by the Catholic Diocese of Linz and contained an endorsement by the Deputy Governor of Upper Austria. In response to the ICRF's allegations, the Deputy Governor noted that the CD-ROM was no longer being produced. He also agreed that non-recognized religious groups could submit a description of themselves for use on the Upper Austrian Education Intranet.

There was some societal mistrust and discrimination against members of some non-recognized religious groups, particularly those considered to be sects. A large portion of the public perceives such groups as exploiting vulnerable persons for monetary gain, recruiting and brainwashing youth, promoting antidemocratic ideologies, and denying the legitimacy of government authority. Societal discrimination against sects was, at least in part, fostered by the Government's policy of selective recognition.

Muslims complained about incidents of societal discrimination. They reported that a school in Vienna distributed a working paper that turned the five pillars of Islam into a preparation for battle. They also complained of incidents of verbal harassment. One Muslim cemetery in Upper Austria was desecrated during the year.

Sensitivity to and fears of Scientology in the country remains an issue. The Church of Scientology reported problems obtaining credit cards, and individual Scientologists experienced discrimination in hiring. However, Scientology leaders also noted that the Vienna Provincial Tax Authority granted them tax-exempt, non-profit status.

The Austrian Jewish Community (IKG) is facing severe financial problems and has requested additional subsidies from the Government. The IKG rejected offers by the Government for interest-free loans, stating the solutions offered were inadequate and did not address the community's long-term financial problems. During the year, there were incidents of desecration of Jewish cemeteries. In December, the World Jewish Congress published an EU report on anti-Semitism in Europe, which stated that the problem of anti-Semitism in the country manifested itself in societal and traditional stereotypes rather than acts of physical force.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

In July 2002, Parliament adopted an immigration reform proposal, effective January 1, which harmonized residence and employment provisions and required permanent legal residents to take German language and civics courses for the purpose of integration. Immigrants who entered the country after January 1, 1998, need to show a basic knowledge of the German language and an understanding of the country's culture when applying for an immigrant visa. Those immigrants who fail to complete the courses by various deadlines would face financial penalties and deportation or expulsion. Annual immigration quotas remained static at approximately 8,000 per year, although there have been shifts in the distribution among the categories. In 2002, the number of illegal aliens intercepted at national borders was 48,436, a slight decrease from the previous year. The decrease was attributed to the Government's increased efforts at the international level to fight alien smuggling. The elimination of the entry visa requirement for Romanian nationals, which took effect in January 2002, was believed to be a factor.

The law includes provisions for the granting of asylum and refugee status to those persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum; however, the Government subscribes to the safe country of transit concept, which requires asylum seekers who transit countries deemed "safe" to depart and seek refugee status in the country they transited. In response to continuing criticism by the Office of the U.N. High Commissioner for Refugees (UNHCR) and other

humanitarian organizations, in 1997, the Government passed an amendment to the 1991 asylum law designed to bring some improvements to the safe country of transit rule and the appellate procedure. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. The UNHCR and other humanitarian organizations generally approved of the 1997 asylum law, but there was still some dissatisfaction with its implementation. There was widespread opposition to the safe country of transit concept implemented by the Government based on the fear that it compromised the principle of individual investigation of claims.

In October, Parliament passed an amendment to the asylum law aimed at expediting the processing of asylum claims. The new law, which is scheduled to take effect on May 1, 2004, is expected to require a first determination within 48-72 hours of filing a claim, limit the right of appeal, and provide no guarantee that an asylum applicant will stay in the country during the appeals process. The new law also would stop the practice of taking asylum claims at land borders and introduce a list of "safe countries of transit." Opposition groups and NGOs have criticized the law as unconstitutional because it curtails the authority of the independent Asylum Senate and compromises the principle of individual investigation of claims.

Persons found to be refugees were not returned to the countries from which they fled. Asylum seekers whose claims have been rejected by the Federal Asylum Office were allowed to appeal to the independent Federal Asylum Senate, then to the Administrative Court. Asylum seekers whose claims have been rejected also had recourse to the Constitutional Court in cases in which they allege a breach of the European Convention on Human Rights and Individual Freedoms. The Government also provided temporary protection to certain individuals who do not qualify as refugees or asylees.

During the first half of the year, there were 14,781 asylum applications, compared with 17,084 received in the same period in 2002. The official approval rate for 2002 was 22.2 percent (19.7 percent, including non-refoulement decisions), compared with 20.2 percent in 2001. In 2002, the largest groups of applicants ranked by nationality were persons from Afghanistan, Serbia and Montenegro, Iraq, Turkey, and India.

Since 2002, the Government has contracted with a private German agency, European Homecare, to provide counseling to unsuccessful asylum applicants, encouraging them to return to their country of origin. As of July, this private agency was under contract to provide care and maintenance at residential facilities for asylum seekers. The Government was criticized for this privatization following a confrontation in one of the main centers for asylum seekers in August, which led to the death of a Chechen man.

In the past, the Government effectively granted assistance to only one-third of all asylum applicants who faced financial hardship. However, in a controversial decree that took effect in October 2002, the Interior Ministry prohibited members of certain nationalities from state shelters while their asylum claims were being adjudicated. Human rights groups, such as Caritas and Protestant Relief organizations, have been accommodating refugees turned away by the Government and have been involved in legal proceedings to recover costs. Following an August ruling by the Supreme Court, in connection with a family from Georgia expelled from state housing, the Government ceased implementing the directive.

The new asylum amendments also define government care as a form of voluntary support to be provided in cooperation with other entities, and narrowed down the criteria for needy applicants. The maximum number of individuals qualifying for government care, primarily those who meet the definition of an asylee who qualifies for temporary protection or who fears persecution if returned, was estimated to be about 19,000. The costs of government care were estimated at approximately \$188 to 200 million (150 to 160 million euros). At year's end, negotiations were under way among the Government, the states, and relief organizations to determine the number of affected applicants (approximately one-third of the 21,000 open cases were believed to have abandoned their applications and left the country to apply for asylum in another country) and to find necessary financial means. Until the new law takes effect in 2004, the Government, the states, and selected relief organizations have temporarily agreed to share the costs. At year's end, negotiations were ongoing.

The influx of Afghan refugees resulted in a considerable burden on the government's care and maintenance system. By November, approximately 1,300 Afghan asylum seekers out of a total of some 9,700 applicants were receiving government care until a final determination of their claims could be made.

The Human Rights Advisory Council, composed of representatives from the Justice and Interior Ministries, as well as NGOs, operated to ensure that the police and gendarmerie respect human rights while carrying out their duties. A policy requires that all potentially violent individuals be deported on chartered aircraft, rather than on commercial flights.

Civil charges filed on behalf of the daughter of Marcus Omofuma, an unsuccessful Nigerian asylum applicant who died after being physically restrained for violent behavior while being deported to Lagos, Nigeria, remained pending before an Administrative Board at year's end.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. National elections were held in

November 2002 in which the OVP won 79 seats in Parliament, the Social Democrats (SPO) 69, the FPÖ 18, and the Green Party 17. There were 63 women in the 183-seat National Assembly and 20 in the 62-member Federal Assembly. There were four women in the Federal Cabinet.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. In some cases, they were dissatisfied with the information that the authorities supplied in response to specific complaints. There were no reports of discrimination against organizations that report on human rights. In 1999, the Interior Ministry created the Human Rights Advisory Council, composed of representatives from the Justice and Interior Ministries, as well as NGOs, to ensure that the police and gendarmerie respect human rights while carrying out their duties.

While implementing the EU Anti-Discrimination and Anti-Racism Guidelines, the Government drafted a revised Equal Treatment Bill and opened it to review in July. After the review deadline passed on September 8, opposition parties and NGOs criticized the Government for having integrated the EU guidelines into the existing legislation, but not formulating a specific anti-discrimination law.

The anti-racism NGO ZARA experienced financial difficulties due to cuts in subsidies from the Interior Ministry. The City of Vienna offered a special subsidy to the NGO, which does research and counseling on racism.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The law provides for protection against any of these types of discrimination in employment, provision of welfare benefits, and other matters, and the Government generally enforced these provisions effectively.

Women

Although there are no accurate statistics available on the number of women abused annually, violence against women was believed to be a problem. Police and judges enforced laws against violence; however, there were estimates that less than 10 percent of abused women filed complaints. The Association of Houses for Battered Women estimated that one-fifth of the country's 1.5 million adult women had suffered from violence in a relationship. An amendment to the 1997 Law on the Protection Against Violence in the Family extends the period during which police can expel abusive family members from family homes. In 2002, an injunction to prevent abusive family members from returning home was applied in 3,944 cases. The Government also sponsored shelters and help lines for women.

Trafficking in women was a problem (see Section 6.f.). While prostitution is legal, trafficking for the purposes of prostitution is illegal.

Of the 1,616 new cases brought to the Ombudsmen for Equal Opportunity in 2002, 313 were complaints of sexual harassment. The Federal Equality Commission, as well as the Labor Court, may order employers to compensate victims of sexual harassment. The law prohibits sexual harassment, and the Government effectively enforced those laws.

There are no legal restrictions on women's rights. A Federal Equality Commission and a Federal Commissioner for Equal Treatment oversee laws prescribing equal treatment of men and women. The new coalition Government reestablished a ministry for Health and Women's Affairs, headed by Maria Rauch-Kallat.

An estimated 57 percent of women between the ages of 15 and 60 were employed; on average, women earned only 79 percent of what men earn for the same work. Women were more likely than men to hold temporary positions and also were disproportionately represented among those unemployed for extended periods of time.

Although labor laws provide for equal treatment for women in the civil service, women remain underrepresented. To remedy this circumstance, the law requires hiring women of equivalent qualifications ahead of men in all civil service areas in which less than 40 percent of the employees are women, including police; however, there are no penalties for failing to attain the 40-percent target.

Female employees in the private sector may invoke equality laws prohibiting discrimination of women. The Federal Equality Commission may award compensation of up to 4 months' salary if women are discriminated against in promotions because of their sex. The Commission also may order legal recompense for women who are denied a post despite having equal qualifications. In October, Parliament passed a law stating that parents in companies with more than 20 employees, who have children under the age of seven, have the right to work part-time.

Women are allowed to serve in the military forces voluntarily. At year's end, there were 226 women—of a standing

force of approximately 35,000--serving in the military forces, including 4 commissioned officers. There were no restrictions on the type or location of assignments of women.

Women's rights organizations were partly politically affiliated, and partly autonomous groups. They usually received wide public attention when voicing their concerns. The Government continued to provide government subsidies to these groups.

Children

The law provides for the protection of children's rights. Each provincial government and the federal Ministry for Youth and Family Affairs has an "Ombudsperson for Children and Adolescents" whose main function was to resolve complaints about violations of children's rights.

While 9 years of education were mandatory for all children beginning at age 6, the Government also provided free education through secondary school and subsidized technical, vocational, or university education. The majority of school age children attended school. Educational opportunity was equal for girls and boys. Comprehensive, government-financed medical care was available for all children without regard to gender.

The growing number of reported incidences of child abuse was considered a result of increased public awareness of the problem. Although there was no societal pattern of abuse against children, heightened awareness of child abuse has led the Government to continue its efforts to monitor the issue and prosecute offenders. Doctors were required to report to the police suspected cases of child abuse and molestation. An exception may be made if the suspected abuser is a close relative of the victim, where doctors may refrain from reporting to the police for the sake of the well-being of the minor. However, in such cases, the victim's representative must establish contact with a youth care officer or a hospital's child protection unit.

According to the Penal Code, sexual intercourse between an adult and a child (under 14 years of age) is punishable with a prison sentence of up to 10 years; in case of pregnancy of the victim, the sentence can be extended to up to 15 years. The respective penal code provisions on sexual intercourse between adults and children were amended in 2002. The different provisions for homosexual relationships between minors and adults were dropped and replaced by a version that does not distinguish between hetero- and homosexual relations.

In 2002, the Ministry of Justice reported 697 cases of child abuse, most involving intercourse with a minor. Of these cases, 255 resulted in convictions. Under the law, any citizen engaging in child pornography in a foreign country becomes punishable under Austrian law even if the actions are not punishable in the country where this violation was committed. The law also entails severe provisions for the possession, trading, and private viewing of child pornography. For example, exchanging pornographic videos of children is illegal even if done privately rather than as a business transaction.

The Federal Crime Authority has a special department for cyber crime, which set up an anonymous e-mail point of contact for the public to report on child pornography on the Internet.

Trafficking of children from Romania and Bulgaria for the purpose of begging and stealing in Viennese shopping centers increased during the year (see Section 6.f.).

Persons with Disabilities

The law protects persons with disabilities from discrimination in housing, education, and employment. A 1997 amendment to the law explicitly requires the State to provide for equal rights for the disabled "in all areas of everyday life." The law requires all private enterprises and state and federal government offices to employ one person with disabilities for every 25 to 40 employees, depending on the type of work. Employers who do not meet this requirement must pay a fee to the Government, and the proceeds help finance services for the disabled such as training programs, wage subsidies, and workplace adaptations. However, the law has received some criticism because many observers believed that penalties were too low to discourage companies from bypassing the requirement. There were no reports of societal discrimination against persons with disabilities. The Government budgeted \$86 million (69 million euros) for the year to fund projects that employed persons with disabilities.

The Government estimated that there were approximately 72,000 persons having a degree of disability of 50 percent or more. Federal law mandates access for persons with physical disabilities. However, low fines and insufficient enforcement resulted in the inaccessibility of many public buildings to persons with disabilities.

The law prohibits the sterilization of minors. Persons with mental disabilities 18 years of age and older may be sterilized only in life-threatening instances.

National/Racial/Ethnic Minorities

The law recognizes six national minority groups: Croats, Czechs, Hungarians, Roma, Slovaks, and Slovenes. In the past, any community where at least 25 percent of the population belonged to one of these groups was entitled to bilingual town signs, education, media, and access to federal funds earmarked for national minorities. At year's end, there was no decision on

implementation of the 2001 Constitutional Court ruling ordering the lowering of the standard. The next consensus conference is scheduled to take place after the Carinthian provincial elections in March 2004. Bilingual town signs existed in other states as well.

The Slovenian minority in Carinthia complained that the Government withdrew funding of a private, Slovene-language radio station. The Government stated it intended to redirect that funding to other Slovene-language programming. In December, ORF and Slovene minority representatives reached a compromise. ORF agreed to provide 8 hours of radio programming per day while the two Slovene-language stations will receive \$308,000 (246,000 euros) annually to cover the remaining sixteen hours. In December, the local government in the state of Styria agreed to allocate a seat on its advisory council on minority issues to a representative of the Styrian Slovenes.

The largest problem facing these national minority groups is the preservation of their culture and language. During the year, the Hungarian minority in Burgenland complained that they were not receiving enough federal subsidies in order to preserve their language and culture. In addition, most human rights groups claimed that Roma faced particular discrimination in employment and housing. Members of other minority groups, such as Turks and Indians, were not considered national indigenous minorities and do not have access to the same type of assistance. Turkish citizens also benefited from a wide range of language and job promotion courses. NGOs complained that Africans living in the country were verbally harassed in public.

Statistics for 2002 showed a slight decrease in the number of neo-Nazi, rightwing extremist, and xenophobic incidents as the previous year. During 2002, the Interior Ministry recorded 326 incidents; in 2001, there were 335 incidents. During the year, the Government continued to express concern over the activities of extreme-right skinhead and neo-Nazi groups, many with links to organizations in other countries.

In March, the domestic NGO ZARA, in conjunction with other groups, released a report entitled "Racism 2002," which found that persons from diverse ethnic and racial backgrounds faced increasing discrimination from government officials, particularly the police, as well as in the workplace and in housing. The report cited 170 examples of discrimination faced by immigrants on a daily basis and called for the strengthening of public education and legal protections for immigrants.

The Government continued its training program designed to combat racism and educate the police in cultural sensitivity. A comprehensive pro-minority rights bill provides for expanded constitutional protections for the country's six officially recognized minorities.

In September, the Parliament in the state of Styria passed a law that fined restaurants for demonstrating racist behavior against black Africans.

Section 6 Worker Rights

a. The Right of Association

Workers have the right to form and join unions without prior authorization, under general constitutional provisions regarding freedom of association. In practice, trade unions had an important and independent voice in the political, social, and economic life of the country. An estimated 47 percent of the work force was organized into 13 national unions belonging to the Austrian Trade Union Federation (OGB), which had a highly centralized leadership structure. Association of national unions with the OGB was voluntary. Individual unions and the OGB were independent of government or political party control, although formal factions within these organizations were allied closely with political parties. The law does not prevent any group of workers from joining unions.

In cases of disputed terminations, the law obliges employers of enterprises with more than five employees to prove to a labor court that job dismissals are not motivated by antiunion discrimination. Employers found guilty of this offense are required to reinstate workers. Labor and business representatives remained in a longstanding disagreement over how to provide legal protection to employees against arbitrary dismissals in firms with five employees or fewer.

b. The Right to Organize and Bargain Collectively

Unions have the right to organize and bargain collectively. Almost all large companies, private or state-owned, were organized. Worker councils operated at the enterprise level, and by law workers are entitled to elect one-third of the members of the supervisory boards of major companies. Collective agreements covering wages, benefits, and working conditions were negotiated for each industry by the OGB with the National Chamber of Commerce and its associations, which represented the employers.

The right to strike is not provided explicitly in the Constitution or in national legislation; however, it was recognized universally in practice. Historically, strikes have been comparatively few and usually of short duration. A major reason for the record of labor peace is the unofficial system of "social partnership" among labor, management, and government. At the center of the system is the Joint Parity Commission for Wages and Prices, which has an important voice on major economic questions.

The law prohibits retaliation against strikers, and the Government effectively enforced the law. In general, a special arbitration court for social affairs, which is part of the judicial system, handles legal disputes between employers and employees regarding job-related matters. Unions have access to the arbitration court.

In May and June, over one million workers went on three 1-day strikes protesting the Government's planned reform of the pension system and its failure to consult the labor union federation before sending the proposed legislation to Parliament. In November, the main rail union called a complete strike--the first all-out rail strike since the end of World War II--to protest a draft law to reform the rail service and cut costs drastically. The union and the Government eventually settled on a compromise solution and agreed to work on mutually acceptable reform steps by April 2004.

The OGB is exclusively responsible for collective bargaining. The leaderships of the Chamber of Labor, the Chamber of Commerce, and the OGB are elected democratically.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor

The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

In 2000, an agreement was signed between the Government, attorneys representing former forced and slave laborers, and representatives of foreign governments, providing compensation for former forced and slave laborers used by the Nazi government in the 1930s and 1940s. By December, approximately \$375 million (300 million euros) had been provided as compensation to 113,877 former forced and slave laborers. The Government extended the fund's application deadline to December 31, and the fund's period of existence was prolonged until December 31, 2004. It is expected that the fund will use less than \$406 million (325 million euros) out of the fund's \$545 million (436 million euros). The remaining funds are to be used for special projects to benefit victims of the Nazi era.

d. Status of Child Labor Practices and Minimum Age for Employment

The minimum legal working age is 15 years. The Labor Inspectorate of the Ministry of Social Affairs effectively enforced this law. The Government has adopted laws and policies to protect children from exploitation in the work place.

e. Acceptable Conditions of Work

There is no legislated national minimum wage. Instead, nationwide collective bargaining agreements set minimum wages by job classification for each industry. The accepted unofficial minimum wage is \$12,718 (10,174 euros) a year, and it provided a decent standard of living for a worker and family. Every worker was entitled to a variety of generous social benefits.

Although the legal workweek was 40 hours, more than 50 percent of the labor force was covered by collective bargaining agreements that set the workweek at 38 or 38½ hours.

Laws regularly enforced by the Labor Inspectorate of the Ministry of Social Affairs provide for mandatory occupational health and safety standards. Workers may file complaints anonymously with the Labor Inspectorate, which may bring suit against the employer on behalf of the employee. However, this option rarely was exercised; workers normally relied instead on the Chambers of Labor, which filed suits on their behalf. The Labor Code provides that workers have the right to remove themselves from a job if they fear "serious, immediate danger to life and health" without incurring any prejudice to their job or career, and the Government effectively enforces this law.

f. Trafficking in Persons

There is no single law covering all forms of trafficking in persons; however, Article 217 of the Criminal Code, which describes trafficking for prostitution, is the key provision for the prosecution of traffickers. Trafficking in women for prostitution and domestic service was a problem.

Article 217 refers to recruiting aliens for prostitution and covers trafficking for prostitution through deception regarding the purpose of the journey to the country or through coercion or use of force. Article 104 of the Criminal Code also deals with trafficking for the purposes of slavery. Article 104 of the Aliens Act contains criminal law provisions on alien smuggling. Article 105 of the Aliens Act prohibits the exploitation of aliens without specifically requiring demonstration of prostitution as a goal and without requiring demonstration of assistance in the illegal entry of aliens. Some NGOs have called for an expansion of the legal definition of trafficking to include exploitation for domestic labor and coerced marriages. On November 4, the Minister of Justice presented legislation to the Cabinet that would expand the definition of trafficking to include trafficking of persons for the exploitation of labor and trafficking of organs; Parliament is expected to vote on the legislation in early 2004.

Although prostitution is legal, trafficking for the purpose of prostitution is illegal, and can result in jail sentences of up to 10 years for convicted traffickers. Trafficking for purposes of slavery can lead to a prison sentence of from 10 to 20 years. The maximum penalty for alien smuggling is 10 years' imprisonment.

In 2002, the Interior Ministry, which is the primary government agency involved in anti-trafficking efforts, reported that there were 70 complaints filed under Article 217, of which 27 resulted in convictions. There were 58 cases filed under Article 105, resulting in 15 convictions. Cases filed for alien smuggling under the Aliens Act were much higher, affirming that many traffickers were prosecuted under this section of law. In 2002, there were 1,988 cases filed, leading to 281 convictions.

The Interior Ministry worked at the national and international level to raise awareness of human trafficking. In 2002, the Ministry created a new body, the Federal Crime Authority, which has a division solely dedicated to combating human trafficking and alien smuggling. Federal police units addressing organized crime and sex crimes also focused on this problem.

In 2001, in response to a marked increase of illegal border crossings at the eastern borders in the first half of that year, the Government set up a special task force to coordinate the Government's efforts to fight trafficking. However, many victims of trafficking continued to migrate legally. Local and national level governments cooperated with authorities from other countries to investigate and prosecute trafficking cases. The Government cooperated with Eastern European countries in particular to dismantle a number of trafficking rings.

The country was a transit point and final destination for women trafficked from Bulgaria, Romania, Ukraine, Moldova, the Balkans and, to a lesser extent, the Czech Republic, Slovakia, and Hungary. The women were trafficked into Austria and other western European countries, primarily for the purpose of sexual exploitation. Women also were trafficked from Asia and Latin America to Austria for domestic labor. Police noted increased trafficking of Romanian and Bulgarian boys to engage in begging, stealing, and possible sexual exploitation.

There are no accurate statistics on trafficked persons specifically. However, the number of intercepted illegal immigrants, of whom some were trafficking victims, continued to increase. In 2002 the NGO LEFOE reported that it assisted 208 victims of trafficking, up from 183 victims in 2001. The country is particularly attractive to traffickers because of its geographic location and the fact that citizens of the Czech Republic, Slovakia, Hungary, Romania, and Bulgaria do not require visas to enter the country. Most trafficked women were brought to Austria with promises of unskilled jobs such as nannies or waitresses. Upon arrival they were coerced or forced into prostitution. There also were cases of women who knowingly went to Austria explicitly to work as prostitutes but who then, according to police, were forced into states of dependency akin to slavery. Most victims were in the country illegally and feared being turned into authorities and deported. Traffickers usually retained victims' official documents, including passports, to maintain control over the victims. Victims of trafficking reported being subjected to threats and physical violence. A major deterrent to victim cooperation was widespread fear of retribution, both in Austria and in the victims' countries of origin.

The majority of traffickers arrested by police were citizens; however, the number of foreigners engaged in trafficking has increased over the years. Police estimated that a large portion of trafficking was controlled by organized crime, primarily from Eastern Europe.

The Government provided temporary residence to victims of trafficking who were prepared to testify or intend to raise civil law claims. However, victims still rarely agreed to testify, due to fear of retribution. Temporary residency status allowed victims to stay in the country only during a trial. No provisions were made for them to stay in the country following their testimony; virtually all victims of trafficking were repatriated.

LEFOE provided secure housing and other support for victims of trafficking. The International Organization for Migration (IOM) sought to put victims in contact with NGOs in their countries of origin upon their return. With financial assistance from the Interior Ministry, LEFOE also continued to operate the Intervention Center for Victims of the Trade in Women (IBF) in Vienna, which provides services to trafficked women, including: psychological, legal, and health-related counseling and assistance, emergency housing, and German language courses. There also were similar centers located in other cities in the country that were financed by federal and local governments.

The Government worked actively with international and regional organizations to carry out preventive programs throughout the region. Government-funded research on the problem of trafficking and NGO prevention work included anti-trafficking brochures, law enforcement workshops, and international conferences on the issue, funded by private and public sources. The Government also provided funding for intervention centers that provided emergency housing and psychological, legal, and health-related assistance to victims. The Government also was active in U.N. and Organization of Security and Cooperation in Europe international efforts to combat trafficking. During the year, Austrian experts often were involved in regional training and capacity building programs sponsored by the Stability Pact Anti-trafficking Task Force.